

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2633, 2634 & 2658 of 1989

For Approval and Signature:

Hon'ble MR.JUSTICE H.K.RATHOD

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
5. Whether it is to be circulated to the Civil Judge? : NO

HIMADRI TEXTILE MILLS

Versus

USMANBHAI ALIBHAI

Appearance:

NANAVATI & NANAVATI for Petitioner

MR KV GADHIA for Respondent No. 1

CORAM : MR.JUSTICE H.K.RATHOD

Date of decision: 01/10/1999

ORAL JUDGEMENT

Heard Shri Shukla, learned advocate appearing for Mr. S.I. Nanavaty, the learned advocate for the petitioner and Shri K.V.Gadhia, learned advocaote for the respondents workmen. In all these petitions, common question of law and facts have been raised and, therefore, I am disposing of these three petitions by this common judgment. The facts of the present petitions

are that the respondent workmen had filed recovery application no. 309 and 312 of 1985 before the labour Court at Ahmedabad against the petitioner Mills Co. IN the said recovery applications, the respondent workmen has claimed the salary which was not paid, difference of salary and the amount of earned leave and bonus. The labour Court has passed an order in recovery application no. 309 of 1985 dated 31.12.1989 which is impugned in special civil application no. 2633 of 1989 wherein the labour court has granted Rs. 30925.00 to the respondent, one Usmanali and Rs. 21,175.00 was ordered to be paid to the another respondent one Dashrathbhai Manaibhai alongwith the cost of Rs. 150.00 to the respondent workmen. In special civil application No. 2634 of 1989, the labour court has granted an amount of Rs. 9052.00 to the respondent Yogeshbhai Goswami and Rs. 8932.00 to another respondent Chandrakant Parshottamdas. At the time of admitting this petition, this Court granted the ad interim stay of the impugned orders passed by the Tribunal on a condition that the petitioner Mills Co. should deposit the amount of Rs. 20,000/- in this court within four weeks from the date of the said order. While admitting special civil application NO. 2658 of 1989 also, ad interim stay of the impugned order passed by the tribunal was granted on a condition that the petitioner Mills Co. should deposit an amount of Rs. 6000/- within four weeks from the date of the said order. While admitting special civil application no. 2634 of 1989 also, ad interim stay of the impugned order passed by the tribunal was granted on a condition that the petitioner Mills Co. should deposit an amount of Rs. 5000/- within four weeks from the date of the said order.

Today, when these petitions have come up for hearing, Mr. Shukla, the learned advocate appearing on behalf of the petitioner Mills Co. has pointed out before this Court that by passage of time, the petitioner Mills Co. has become the sick unit and has also applied before the B.I.F.R. and that application is pending before the B.I.F.R. Mr. Gadhia, the learned advocate appearing for the respondents workmen has submitted that in view of the fact that the petitioner Co. has become sick unit and has applied to the B.I.F.R., this Court may pass appropriate orders by taking into account the amounts which were directed to be deposited by this Court while admitting these petitions. Therefore, keeping in view the fact that the petitioner Mills Co. has become sick unit and has also applied before the B.I.F.R. and also in view of the fact that the said application is pending before the B.I.F.R., and also in view of the submissions made by the learned advocates, as per my

view, the amounts involved in these petitions are small. While admitting these petitions and granting ad interim stay of the impugned orders of the tribunal, this Court has taken care of the situation by directing the petitioner CO. to deposit the amounts as stated hereinabove. I am, therefore, of the opinion that it would be just and proper and in the interest of justice to dispose off these petitions in terms of the ad interim orders passed by this Court while admitting these petitions without entering into the larger questions of law as to whether the execution proceedings can continue or not against the petitioner Co. which has become sick unit and which has approached the B.I.F.R. by modifying the orders of the tribunal to that extent. Therefore, in special civil application no. 2634 of 1989, this Court has directed the petitioner Co. to deposit an amount of Rs. 5000/- in respect of the workman Yogesh Shivgiri Goswami. Therefore, the order passed by the labour court which is impugned in the said petition is modified and it is held that the said respondent Yogesh SHivgiri Goswami is entitled to receive Rs. 5000/- as directed to be deposited by this Court and the order passed by the labour Court is modified to that extent.

Special Civil Application NO. 2658 of 1989 relates to the workman Chandrakant Purshottam in which petition this COurt has directed the petitioner Co. to deposit an amount of Rs. 6000/- while admitting the petition and granting ad interim stay. Therefore, in so far as the order of the labour court impugned in the said petition is concerned, same is modified and it is held that the said respondent CHandrakant Purshottam is entitled to receive Rs. 6000/- as directed to be deposited by this court and the order passed by the labour court in relation to the said workman is modified to that extent.

Special Civil Application NO. 2633 of 1989 relates to the workman Usman Ali in which petition, this Court has directed the petitioner Co. to deposit an amount of Rs. 20,000/- while admitting the petition and granting ad interim stay. Therefore, in so far as the order of the labour court impugned in the said petition is concerned, same is modified and it is held that the said respondent Usman ALi is entitled to receive Rs.20000/- as directed to be deposited by this court and the order passed by the labour court in respect of the said workman is modified to that extent.

If the amounts as aforesaid are still not

withdrawn by the concerned workmen so far, the respondents - workmen herein shall be entitled to withdraw the same and the office shall pay the same to the said respondents by issuing A/c. Payee Cheque in their names.

These petitions shall accordingly stand disposed off. Rule issued in each of the petitions is made absolute to the aforesaid extent with no orders as to costs.

1.10.1989 (H.K.Rathod,J.)

Vyas